

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7529 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SURESHBHAI B PATEL

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR PJ PATEL for Petitioner

MR HS MUNSHAW for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/07/1999

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. Rule. Mr.Munsha waives service of rule on behalf of
the respondent. The matter has taken up for hearing on
the request for counsel for the parties.

#. Twofold grievances have been made by the learned

counsel for the petitioner in this special civil application; firstly, against the inaction of the respondent not to pass appropriate order for the period the petitioner remained under suspension from 8/5/90 to 7/4/97; the second grievance has been made against the order dated 10/8/1998 under which after holding departmental inquiry he was punished with the penalty of stoppage of two grade increments without future effect.

#. So far as the second grievance is concerned, against the order of the respondent punishing the petitioner in the departmental inquiry by stoppage of his two increments without future effect it is appealable before the Gujarat Civil Services Appellate Tribunal at Ahmedabad. The learned counsel for the petitioner very fairly admits that this order is appealable and the petitioner will file appeal against this order. However, he submits that by this time the appeal has become time barred and as this matter remained pending before this court, the court may protect the petitioner from dismissal of his appeal by the Tribunal on the ground of limitation. In case, the petitioner prefers the appeal within a period of one month from today it is expected of the Tribunal that it may not dismiss the same on the ground of limitation.

#. So far as the first grievance is concerned, the action of the respondent not to pass the order as to how the period during which the petitioner was remained under suspension after the criminal case has come to an end in his favour and departmental inquiry is also finalized to be dealt with, I find sufficient merits therein. The respondent is expected to know the provisions as contained in Rule 152 of the Bombay Civil Services Rules. After ending of the criminal case, which was there against the petitioner as well as the departmental inquiry, the order has to be passed under the rule aforesaid, which is applicable to the Panchayat Services also as what Mr. Munsha admits, as to how the period of suspension of the petitioner is to be dealt with. The learned counsel for the respondents very fairly submits that this exercise will be undertaken and the order under the rule aforesaid will be passed by the officer concerned within a period of 2 months in accordance with law.

In the result, this writ petition to the extent of challenge to the order of the respondent punishing the petitioner with the penalty of stoppage of his two increments without future effect is dismissed, only on the ground that the petitioner has efficacious

alternative remedy for appeal against it. So as the second relief is concerned, this writ petition is dismissed subject to the directions to the officer concerned to pass order as to how the period during which the petitioner remained under suspension has to be dealt with, in accordance with law within 2 months from the date of the receipt of the writ of this order.

Rule discharges in terms aforesaid. No order as to costs.

(S.K.Keshote, J.)

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